

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
Daniel Kiss,

Plaintiff,

-against-

**NOTICE OF
REMOVAL**

Docket No.:

Town of Hyde Park NY, Rafael A. Torres, Daniel I.
Ferrara, Michael A. Stallone, Joshua D. Tucker as Hyde
Park Police Officers, James H. Schulhoff as NYS
Trooper, and Jane/John Does 1-5,

Defendants.
-----X

Defendants Town of Hyde Park NY, Rafael A. Torres, Daniel I. Ferrara, Michael A. Stallone, Joshua D. Tucker as Hyde Park Police Officers (“Hyde Park Defendants”), by their attorneys, PORTALE RANDAZZO LLP, and Defendant James H. Schulhoff as NYS Trooper (“Schulhoff”), by his attorney, LETITIA JAMES, Attorney General for the State of New York, as and for their Notice of Removal, set forth as follows:

1. This action was commenced in the Supreme Court of the State of New York, Dutchess County with the filing and service of a Summons with Notice. A copy of the Summons with Notice is annexed as Exhibit “A.”
2. Defendant Town of Hyde Park NY was served with this lawsuit on November 8, 2021.
3. On November 5, 2021, this firm filed a Notice of Appearance and Demand for Complaint in state court on behalf of the Hyde Park Defendants. A copy is annexed as Exhibit “B.”
4. On November 29, 2021, LETITIA JAMES, Attorney General for the State of New York, filed a Notice of Appearance and Demand for a Complaint in state court on behalf of Defendant Schulhoff. A copy is annexed as Exhibit “C.”

5. To date, a Complaint has not been filed or served.

6. Plaintiff brings this action alleging, inter alia, that one or more Defendants violated his constitutional rights under the United States Constitution, and asserts claims pursuant to 42 U.S.C. § 1983. Therefore, this case falls within this Court's federal question jurisdiction, 28 U.S.C. § 1331.

7. Defendants are entitled to remove this action pursuant to 28 U.S.C. § 1441(b) which provides, in pertinent part:

Any civil action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the United States shall be removable without regard to the citizenship or residence of the parties. Any other such action shall be removable only if none of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.

WHEREFORE, Defendants pray that the above captioned proceeding, now pending in the Supreme Court of the State of New York, Dutchess County, be removed therefrom to this Court.

Dated: White Plains, New York
December 6, 2021

PORTALE RANDAZZO LLP

By: 

James A. Randazzo


Attorneys for Defendants

Town of Hyde Park NY, Rafael A. Torres,
Daniel I. Ferrara, Michael A. Stallone,
Joshua D. Tucker as Hyde Park Police
Officers

245 Main Street, Suite 340
White Plains, New York 10601
(914) 359-2400

LETITIA JAMES,
Attorney General of the
State of New York

By: _____


Heather R. Rubinstein
Assistant Attorney General
Attorneys for Defendant
James H. Schulhoff as a NYS Trooper
One Civic Center Plaza, Suite 401
Poughkeepsie, New York 12601
(845) 485-3900

TO: PASCAZI LAW OFFICES PLLC
Michael S. Pascazi
Attorney for Plaintiff
1065 Main Street, Suite D
Fishkill, New York 12524
(845) 897-4219

Dutchess County Supreme Court
10 Market Street
Poughkeepsie, New York 12601
Attention: Clerk of the Court

EXHIBIT “A”

NYSCEF DOC. NO. 1

RECEIVED NYSCEF: 07/30/2021

SUPREME COURT STATE OF NEW YORK
COUNTY OF DUTCHESS

Daniel Kiss,

Plaintiff,

vs.

Town of Hyde Park NY, Rafael A. Torres,

Daniel I. Ferrara, Michael A. Stallone, Joshua

D. Tucker as Hyde Park Police Officers, James

H. Schulhoff as a NYS Trooper, and Jane/John

Does 1-5,

Defendants.

Index No.: 2021- 53052

Date Summons Filed: July 30, 2021

Judge: Hon. _____

SUMMONS WITH NOTICE

RECEIVED

NOV 04 2021

TOWN CLERK
HYDE PARK, NY

SUMMONS

To the above-named Defendants:

PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED to serve a Notice of Appearance and/or a Demand for the Complaint on the Plaintiff's attorney (below), within 20 days after the service of this Summons (not counting the day of service itself) or within 30 days after service is complete, if this Summons is not personally delivered to you within the State of New York.

YOU ARE HEREBY NOTIFIED THAT should you fail to serve a Notice of Appearance and/or a Demand for the Complaint, a judgment will be entered against you by default for the relief demanded in the attached NOTICE.

Defendants' addresses are:

Town of Hyde Park NY - 4383 Albany Post Road, Hyde Park, NY 12538;
Rafael A. Torres, Daniel I. Ferrara, Michael A. Stallone, and Joshua D. Tucker - 3 Cardinal Road, Hyde Park, NY 12538;
James H. Schulhoff, 5696 Albany Post Road, Rhinebeck, NY 12572.

Plaintiff's address is: 4676 Albany Post Road, Unit 9A1, Hyde Park, NY 12538.

Pascazi Law Offices PLLC

Michael S. Pascazi, ESQ., of Counsel

1065 Main Street, Suite D, Fishkill, NY 12524

Phone: 845.897.4219 / Fax: 845.468.7117* Email: mpascazi@pascazilaw.com*

*Service not accepted

NYSCEF DOC. NO. 1

RECEIVED NYSCEF: 07/30/2021

1 Dated: July 30, 2021

2 */s/ Michael S. Pascazi*

3 -----X
 4 Pascazi Law Offices PLLC
 5 Michael S. Pascazi, ESQ., of Counsel
 6 Attorneys for Plaintiff
 7 1065 Main Street, Suite D
 8 Fishkill, NY 12524
 9 Ph: 845.897.4219 Fax: 845.468.7117*
 10 Email: mpascazi@pascazilaw.com*
 11 *Service not accepted

12 NOTICE

13 The nature of this action is:

14 Denial of Plaintiff's Federal & State Due Process rights; Unlawful physical and/or constructive
 15 seizure of Plaintiff's person; Unlawful physical and/or constructive seizure and retention of
 16 Plaintiff's personal property; Violation of 42 U.S.C. 1983; Unlawful eviction of Plaintiff from
 17 his residence; Unlawful conversion of Plaintiff's property; *Prima Facie* tort perpetrated upon
 18 Plaintiff.

19 The relief sought is:

20 Special, General, and Compensatory damages as shown at trial, and now estimated at
 21 \$100,000.00, and Punitive/Exemplary Damages as shown at trial, and now estimated at
 22 \$2,000,000.00.

23 Should any Defendant fail to appear or demand the Complaint, herein, judgment will be entered
 24 by default against any and all non-appearing Defendant(s).

25 The basis of venue of this action is:

Plaintiff's residence located at: 4676 Albany Post Road, Unit 9A1, Hyde Park, NY 12538,
 within Dutchess County, New York. Plaintiff designates Dutchess County as the place of trial.

/s/ Michael S. Pascazi

-----X
 Pascazi Law Offices PLLC
 Michael S. Pascazi, ESQ., of Counsel
 Attorneys for Plaintiff
 1065 Main Street, Suite D
 Fishkill, NY 12524
 Ph: 845.897.4219
 Fax: 845.468.7117*
 Email: mpascazi@pascazilaw.com*
 *Service not accepted

EXHIBIT “B”

FILED: DUTCHESS COUNTY CLERK 11/05/2021 11:14 AM

NYSCEF DOC. NO. 2

INDEX NO. 2021-53052

RECEIVED NYSCEF: 11/05/2021

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS

-----X
Daniel Kiss,

Plaintiff,

**NOTICE OF
APPEARANCE WITH
DEMAND FOR COMPLAINT**

-against-

Index No.: 53052/2021

Town of Hyde Park NY, Rafael A. Torres, Daniel I.
Ferrara, Michael A. Stallone, Joshua D. Tucker as Hyde
Park Police Officers, James H. Schulhoff as NYS
Trooper, and Jane/John Does 1-5,

Defendants.
-----X

PLEASE TAKE NOTICE that PORTALE RANDAZZO LLP does hereby enter their appearance on behalf of Defendants, Town of Hyde Park NY, Rafael A. Torres, Daniel I. Ferrara, Michael A. Stallone, Joshua D. Tucker as Hyde Park Police Officers. Any and all correspondence, documents, notices and filings should be forwarded to PORTALE RANDAZZO LLP, 245 Main Street, Suite 345, White Plains, New York 10601. Defendants demand that a copy of the complaint be served upon this firm, at the office address below.

Dated: White Plains, New York
November 5, 2021

PORTALE RANDAZZO LLP

By: /s/ James A. Randazzo

James A. Randazzo

Attorneys for Defendants

Town of Hyde Park NY, Rafael A. Torres,

Daniel I. Ferrara, Michael A. Stallone,

Joshua D. Tucker as Hyde Park Police

Officers

245 Main Street, Suite 340

White Plains, New York 10601

(914) 359-2400

FILED: DUTCHESS COUNTY CLERK 11/05/2021 11:14 AM

NYSCEF DOC. NO. 2

INDEX NO. 2021-53052

RECEIVED NYSCEF: 11/05/2021

TO: PASCAZI LAW OFFICES PLLC (Via NYSCEF)
Michael S. Pascazi
Attorney for Plaintiff
1065 Main Street, Suite D
Fishkill, New York 12524
(845) 897-4219

EXHIBIT “C”

FILED: DUTCHESS COUNTY CLERK 11/29/2021 04:38 PM

INDEX NO. 2021-53052

NYSCEF DOC. NO. 9

RECEIVED NYSCEF: 11/29/2021

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS

-----X
DANIEL KISS,

Petitioner,

**NOTICE OF
APPEARANCE WITH
DEMAND FOR
COMPLAINT**

-against-

Index No. 2021/53052

TOWN OF HYDE PARK, RAFAEL A. TORRES,
DANIEL I. FERRARA, MICHAEL A. STALLONE,
JOSHUA D. TUCKER as Hyde Park Police
Officers, JAMES SCHULHOFF as NYS Trooper,
and JANE/JOHN DOES 1-5,


Respondent(s).

-----X

PLEASE TAKE NOTICE that LETITIA JAMES, Attorney General for the State of New York,
does hereby enter her appearance on behalf of Defendant James H. Schulhoff as New York State Trooper.
Any and all correspondence, documents, notices and filings should be forwarded to LETITIA JAMES,
Attorney General of the State of New York, 1 Civic Center Plaza, Suite 401, Poughkeepsie, New York
12601. Defendant Schulhoff demands that a copy of the complaint be served upon this firm, at the office
below.

Dated: Poughkeepsie, New York
November 29, 2021

Yours, etc.,
LETITIA JAMES
Attorney General of the
State of New York


BY: Heather R. Rubinstein
Assistant Attorney General
Attorney for Respondent
One Civic Center Plaza, Suite 401
Poughkeepsie, New York 12601
(845) 485-3900